



**DEPARTMENT OF THE ARMY**  
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS  
696 VIRGINIA ROAD  
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO:  
ATTENTION OF:

Regulatory Division  
CENAE-R-51

March 8, 2010

Dana Valleau  
TRC Solutions  
14 Gabriel Drive  
Augusta, Maine 04330

Dear Mr. Valleau:

This concerns your client's application for a Department of the Army permit to place temporary and permanent fill in numerous waterways and wetlands at Kibby and Chain of Ponds Township, Maine in order to develop a 45 MW mountain top wind energy project. It has been assigned number NAE-2009-00892 to which all future correspondence should refer.

The application form is complete, however we require additional information to process your application. (See attached sheet for information required.)

This additional information is necessary so that we can properly evaluate your proposed activity and reach a decision on your application. Hence, no further action will be taken until you have complied with our request. Failure to provide this information within thirty days will result in your application being considered withdrawn.

Please do not begin any work in our jurisdiction without the required Corps of Engineers permit. It is illegal to do so, and will only delay your project and may subject you to civil or criminal liability; fines can be as high as \$10,000 or \$25,000 per day of violation respectively.

If a permit is to be issued, a \$100 fee will be required. Do not send the fee at this time. A separate request will be made after we have made our decision.

If you have any questions, please contact me at our Manchester, Maine Project Office at 207-623-8367. Your reply should be addressed to this office at: US Army Corps of Engineers, 675 Western Avenue #3, Manchester, Maine 04351.

Sincerely,

A handwritten signature in black ink that reads "Jay L. Clement".

Jay L. Clement  
Senior Project Manager  
Maine Project Office

ADDITIONAL INFORMATION REQUIRED  
FOR DEPARTMENT OF THE ARMY PERMIT  
APPLICATION NO. NAE-2009-00892

1. Thank you for assisting in the preparation of a preliminary jurisdictional determination form for the project. Could you please email a copy of the draft in word format so that it can be slightly revised prior to final signature. Also, please verify which tables from the LURC application you intended to reference in the JD form.
  
2. We have received a copy of the adverse effect finding of the Maine Historic Preservation Commission (“MHPC”) for a portion of the Benedict Arnold Trail to Quebec Historic District. Please submit information that thoroughly documents your efforts to avoid and minimize impacts to this resource. If MHPC determines that mitigation, and by association a Memorandum of Agreement (“MOA”), is required, please include the Corps in your coordination with MHPC. As you know, any MOA must be cosigned by the Corps and requires a number of formal steps be taken between MHPC, the Advisory Council on Historic Preservation, and the Corps.
  
3. For the Kibby project you assisted in the preparation of our environmental assessment (“EA”). It would be equally helpful if you did the same for this project. I ask that you pay particular attention to the cumulative impact section since this project is linked to Kibby. As you know, the cumulative impact of windpower development is gaining a lot of press.
  
4. Alternatives Analysis.
  - a. Although at a number of points in your alternatives analysis, you incorporate the Section 404(b)(1) Guidelines, you do not do so consistently. The Corps encourages that all alternatives be analyzed and dismissed in accordance with the Section 404(b)(1) Guidelines. With a minimum of additional wording, the language in the guidelines could be added to make the analysis more fully compatible with the requirements of the Corps, the Maine DEP, and the federal resource agencies (US EPA, USFWS, and NMFS). Rather than rewrite the analysis at this time, I suggest that you do so in the EA.
  
  - b. The discussion of the no action alternative needs to be expanded. What are the consequences of no action? The fact that it doesn’t meet state goals and policies is interesting but not really germane.
  
  - c. Beyond expanding the capacity of the Kibby project, isn’t the project purpose to provide additional wind energy in the region? The alternatives analysis needs to include an analysis of stand alone project alternatives.
  
  - d. The analysis could be improved by adding a map of alternative sites/alignments and a comparative table.
  
5. Plans. The plans for the Corps application should follow the format of the Kibby project to include location map, schematic plan views, utility corridor sheets, and typical detail sheets.

6. For purposes of the public notice, please provide the Corps with two sets of standard size mailing labels for the project abutters.

7. Table 1.1. The 4.4 acres of wetland affected is not the sum of the 0.8 acres filled and the 3.5 acres cleared as temporary impact. Was there some rounding up?

8. Exhibit B8. What percent of the affected area is currently in active forest management. Provide any available details on the history of this activity – last cut, % removed, projection for next cut, etc. Presumably your goal would be to demonstrate that your clearing is not unlike past and ongoing practices and is expected to have minimal short-term, long-term, and cumulative impact (for determining mitigation burdens).

9. It is our understanding that LURC will hold a public information meeting or a public hearing or both for the project. Please let us know when these have been scheduled so that we can attend if possible. This may allow us to avoid a similar Corps meeting/hearing later in the process.

10. Mitigation. It is our understanding that you are preparing a draft mitigation plan for the project. Please be aware that we'll need this before we are able to go out for public notice. Mitigation will be required for permanent wetland impacts over 20,000 s.f. and for temporary and clearing impacts. For the latter, please refer to the updated indirect impact mitigation table in the following web link (<http://www.nae.usace.army.mil/reg/2009Guidance10Dec09PN.pdf>) For any mitigation other than in lieu fee, please include a location map of the mitigation site(s) so that it can be included in a public notice.

11. Table B15-1. It seems appropriate that this table should be included in the Corps public notice. For our purposes, it would be cleaner to either remove reference to LURC wetland designators or to add Cowardin references. This is equally important if you intend to attach this table to the preliminary JD form.